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Letter dated 31 December 2001 from the Acting Chairman of the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait addressed to the President of the Security Council

I have the honour to transmit herewith a report of the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait, pursuant to paragraph 6 of Security Council resolution 1360 (2001) (see annex).

The report was approved by the Committee on 28 December 2001.

(*Signed*) Valery P. **Kuchinsky**
Acting Chairman
Security Council Committee established by resolution 661 (1990)
concerning the situation between Iraq and Kuwait

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Annex

Report of the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait on the implementation of the arrangements in paragraphs 1, 2, 6, 8, 9 and 10 of resolution 986 (1995)

I. Introduction

1. The present report is submitted to the Security Council pursuant to paragraph 6 of resolution 1360 (2001), in which the Committee was requested, in close consultation with the Secretary-General, to report to the Council prior to the end of the 150-day period after the entry into force of paragraph 1 of the above resolution on the implementation of the arrangements in paragraphs 1, 2, 6, 8, 9 and 10 of resolution 986 (1995). In paragraph 1 of resolution 1360 (2001), the Council decided that the provisions of resolution 986 (1995), except those contained in paragraphs 4, 11 and 12 and subject to paragraph 15 of resolution 1284 (1999), would remain in force for a new period of 150 days beginning at 00:01 hours, Eastern Standard Time, on 4 July 2001.

2. The present report, the seventeenth of its kind, covers the Committee's major activities with regard to the implementation of the above arrangements during phase X of the oil-for-food programme from 4 July 2001 to 30 November 2001.

II. Sale of petroleum and petroleum products

3. The oil overseers continued to advise the Committee on oil pricing mechanisms, oil contract approval and amendments, management of revenue objectives and other pertinent questions related to export and monitoring, under Security Council resolutions 986 (1995), 1175 (1998), 1242 (1999) and 1360 (2001). In this respect, the oil overseers have been involved in the discussions in the Committee and in the Security Council on the issue of endorsing official selling prices for a period shorter than a full month. Holds placed by the Committee on October and November pricing mechanisms were released towards the end of each month after the overseers had provided new recommendations and reports concerning market premia paid for Iraqi crude oil. The Committee intends to look closely at all possible effects of retroactive pricing for Iraqi oil exports.

4. During phase X, the overseers and independent oil monitors (Saybolt Nederland BV) deployed to observe oil loadings and transfers have worked closely to ensure the monitoring of the relevant oil installations as well as liftings. Meanwhile a report on two cases of alleged loadings of Iraqi crude oil outside United Nations control has been received and has been forwarded to the Committee for its consideration.

5. As at 30 November 2001, the oil overseers on behalf of the Committee approved 144 oil contracts involving purchasers from 36 countries. The total quantity of oil approved for export under those contracts corresponds to approximately 397 million barrels with an estimated value of 7.6 billion euros. The volume of oil lifted during the phase was substantially lower than expected. By the end of the period covered by the present report, 193 loadings totalling 300.2 million

barrels worth 6,004,009,000 euros ($5,350,000,000 at the current rate of exchange) have been completed. All contracts submitted used the pricing mechanisms approved by the Committee, on the recommendation of the overseers. Letters of credit opened for each of the liftings were reviewed and confirmed by the overseers to be in accordance with the terms and conditions of the approved contracts. About 38 per cent of the liftings were made at Ceyhan in Turkey.

6. The overseers have worked with the independent inspection agents (Saybolt Nederland BV) to ensure the effective monitoring of the relevant oil installations and the liftings. In this regard, they have received the full cooperation of the Iraqi authorities.

7. Pursuant to paragraph 2 of the procedures of the Committee (S/1996/636), 947 national oil purchasers have been nominated from 82 countries that are authorized to communicate directly with the overseers.

8. Pursuant to paragraph 14 of the procedures of the Committee, the overseers have continued to report to it weekly on contracts considered by them regarding the sale of petroleum originating in Iraq, including the cumulative quantity and approximate value of petroleum authorized for export. Pursuant to the request of the Security Council, starting from 1 October 2001 a paragraph concerning market premia paid for Iraqi crude oil has been included. As at 30 November 2001, 260 reports have been submitted to the Committee.

III. Humanitarian supplies to Iraq

9. As in previous phases, during phase X, the Committee continued to attach high priority to the work of processing contracts for the supply of humanitarian goods to Iraq.

10. As of 30 November 2001, the Secretariat had received 1,967 applications under phase IX for exports of humanitarian supplies to Iraq. Of that total, 77 were judged to be incomplete and non-compliant and 28 were judged to be inactive; 10 are still being processed; 251 were declared null and void; 746 were notified by the Secretariat and 855 have been circulated to Committee members for action. Of those sent to the Committee, 601 have been approved, totalling approximately $1.64 billion; one is still pending under the "no-objection" procedure and 253, with a total value of $1.03 billion, have been placed on hold. From the beginning of phase X until 30 November 2001, the Secretariat received 1,167 applications for the export of humanitarian supplies to Iraq. Of that total, 6 were declared null and void, 41 were deemed incomplete or non-compliant, 629 were notified by the Secretariat, 378 were circulated to Committee members for action and 113 are still being processed. Of those sent to the Committee for consideration, 305 have been approved, totalling approximately $1.28 billion; 10 are still pending under the "no-objection" procedure and 63, with a total value of $336 million, have been placed on hold. During the reporting period, 379 applications were released from hold with a total value of $1.28 billion. These figures correspond to all the applications (all phases) released from hold during the reporting period. From the beginning of the programme to 30 November 2001, a total of 9,153 applications have been approved with a total value of $19.7 billion. As of 30 November 2001, a total of 1,113 applications are still on hold with a total value of $3.79 billion.

11. The work of goods-arrival-confirmation by the United Nations independent inspection agents (Cotecna) has continued according to the established procedures at the four entry points to Iraq at Al-Walid, Trebil, Umm Qasr and Zakho. As in previous phases, the Iraqi authorities have accorded the independent agents full cooperation in their work. From the start of the programme to 30 November 2001, approximately 8,400 consignments of humanitarian supplies from previous phases for the 59 per cent account, with a value of $15.51 billion, have been confirmed as having arrived in Iraq in total or in partial shipments.

12. In accordance with the recommendations contained in the letters of the Secretary-General to the President of the Security Council of 22 October 1999 (S/1999/1086) and 3 October 2000 (S/2000/950), members of the Committee continue reviewing humanitarian contracts placed on hold during the reporting period. Representatives from relevant United Nations agencies operating in Iraq and the Office of the Iraq Programme have briefed members on those occasions.

IV. Matters relating to oil spare parts and equipment for Iraq

13. The Committee has made continuous efforts to expedite the approval of applications for oil spare parts and equipment required for the oil sector. Pursuant to paragraph 18 of resolution 1284 (1999), the Security Council requested the Group of Experts appointed by the Committee to approve contracts for the parts and equipment referred to in paragraph 1 of resolution 1175 (1998). On 4 September 2001, the Committee received from the Office of the Iraq Programme a list of oil spare parts and equipment submitted pursuant to paragraph 18 of resolution 1284 (1999). The list was approved with amendment on 15 November 2001.

14. During the period of the present report and until 30 November 2001, the Secretariat received 174 applications related to the oil sector. From this total, no application was declared null and void, 25 were deemed incomplete or non-compliant, 12 were notified by the Secretariat, 19 were circulated to Committee members for action and 118 are still being processed.

15. From the beginning of the process to 30 November 2001, the total allocation for oil spare parts and equipment amounted to $3.6 billion. The number of applications received by the Committee for oil spare parts and equipment for Iraq under previous resolutions has reached a total of 4,956 with a value of $3.77 billion. Of these, 130 were judged to be incomplete or non-compliant and 37 were judged to be inactive; a total of 3,525 were circulated to the members of the Committee for their consideration; a total of 214 were declared null and void, or cancelled, 1 was blocked and 154 are under active processing; a total of 895 were approved by the Office of the Iraq Programme. Of the 3,525 applications circulated, 2,958 have been approved with a total value of $1.80 billion; a total of 562 applications valued at $576 million have been placed on hold and 5 applications are pending under the "no-objection" procedure. As of 30 November 2001, partial or complete deliveries of contracts for spare parts and equipment for the oil sector were made up to a value of some $1.01 billion. During the reporting period, 153 such contracts were released from hold with a total value of $157 million.

16. Members of the Committee have repeatedly reviewed contracts for oil parts and equipment that have been placed on hold and will continue to do so as necessary

in the future, in accordance with the letters of the Secretary-General to the President of the Security Council (S/1999/1086 and S/2000/950).

V. Other activities

17. The Committee held six formal meetings and frequent informal consultations at the expert level during the reporting period to discuss various issues related to the humanitarian situation in Iraq and the implementation of the oil-for-food programme. The Committee focused, in particular, on issues related to holds, the oil pricing mechanisms and the oil cash component.

18. The Committee continued its series of informal meetings on sectoral activities with presentations by the United Nations agencies and programmes concerned, as well as discussions on holds in each sector. On 10 September 2001, representatives of the United Nations Children's Fund briefed members of the Committee on the water and sanitation sector in Iraq. On 22 October 2001, members heard a briefing by the Food and Agriculture Organization of the United Nations on the agricultural sector in Iraq as well as briefings by the Office of the Iraq Programme on the structure and functioning of its database for the tracking of applications. Furthermore, on 20 November 2001, the United Nations Development Programme and the United Nations Office of the Humanitarian Coordinator in Iraq briefed the Committee on the situation in the electricity sector and related issues. Further discussions on the subject were undertaken by the Committee experts at a follow-up informal consultation on 27 November 2001. In the aforementioned meetings, the Committee was urged to address the issue of holds as soon as possible, so as to facilitate the implementation of the oil-for-food programme.

19. The oil overseers briefed the Committee, on a number of occasions, on matters related to the pricing mechanisms with regard to Iraq's oil exports. At the Committee's 222nd meeting, held on 6 September 2001, the oil overseers delivered a statement clarifying their position as to the interpretations of their recommendations on the oil pricing mechanisms. Discussions in the Committee on this issue, which were also reflected during the consultations in the Security Council, continued without reaching consensus on a time frame for the oil pricing mechanisms.

20. Following comprehensive discussions on the issue of the cash component for the oil sector, the Committee, on 17 October 2001, sent a letter to the Executive Director of the Office of the Iraq Programme conveying the Committee's agreement, in principle, with the approach and direction taken by the Secretary-General in his report to the Security Council on the matter (S/2001/566). At the same time, certain elements related to the implementation of the necessary arrangements in this regard continue to be of concern to certain members of the Committee and further clarifications were thus sought. The Committee agreed, therefore, to request that the Executive Director of the Office of the Iraq Programme address certain points described in the annex to the letter in his discussions with the Government of Iraq and then report back to the Committee.

21. On 10 September 2001, representatives of the Office of the Iraq Programme provided members with a brief update on the current situation of holds on contracts. The Treasurer of the United Nations responded to questions raised by Committee members relating to the diversification of the Iraq escrow account. At the same

meeting, the Committee considered the latest report of the Board of Auditors on the audit of the United Nations escrow account.

22. On 6 November 2001, the Committee considered a letter from the Captain of the turbine tanker *Essex*, transmitted by the Executive Director of the Office of the Iraq Programme, which stated that a large quantity of Iraqi crude oil had recently been exported outside the United Nations humanitarian programme. The Committee heard a briefing from a representative of Saybolt regarding the matter. The members of the Committee were in agreement that it should take appropriate action to prevent such violations from being committed again.

23. On the above issue, the Committee agreed: (a) that the Office of the Iraq Programme should devise a detailed action plan containing recommendations aimed at improving the monitoring of oil loading at the oil pumping stations; (b) to address letters to all States whose companies had been involved in the incident (the Bahamas, France, the Netherlands, Venezuela, the United Kingdom of Great Britain and Northern Ireland and the United States of America); and (c) to forward to the Committee for review the contracts of the oil companies implicated in the incidents. On 9 November, the Mission of France notified the Committee Chair that it withdrew from the list of approved national oil purchasers the firm Ibex Energy until French authorities completed investigations of its activities, particularly its alleged involvement in the "Essex" case. Subsequently, the Committee wrote to the Permanent Mission of the Netherlands to take the same measure with regard to the company Trafigura Beheer B.V. On 23 November, the Office of the Iraq Programme provided the Committee with proposals for additional operating procedures for crude oil monitoring.

24. On 6 November, the Multinational Interception Force (MIF) Coordinator, Vice Admiral Charles Moore, updated Committee members on MIF activities in the Persian Gulf since his latest report to the Committee in March 2000. While noting a substantial decrease in Iraqi oil smuggling through the Iranian territorial waters, Vice Admiral Moore stressed there were continued oil smuggling activities to destinations in India, the United Arab Emirates, Yemen and the Horn of Africa, as well as the unauthorized use of passenger ferries by certain States to carry cargo to and from Iraq. The Committee expressed the desire to hear further briefings from the MIF.

VI. Conclusions

25. The Committee has devoted much time and effort to overcoming difficulties arising from the implementation of the oil-for-food programme. It will continue to do so and work closely with the Office of the Iraq Programme and all parties concerned to ensure the effective implementation of the arrangements in paragraphs 1, 2, 6, 8, 9 and 10 of Security Council resolution 986 (1995). As in the past, the Committee wishes to reiterate its appreciation to all parties concerned for their cooperation and contributions.